
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

CHARLES RAY ARMSTRONG,

Plaintiff,

v.

FNU NELSON, FNU THOMAS, and
WEBER MORGAN NARCOTICS STRIKE
FORCE,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 1:19-cv-00099-JNP-DBP

District Judge Jill N. Parrish

Plaintiff Charles Ray Armstrong (“Mr. Armstrong”), proceeding pro se, sued FNU Nelson, FNU Thomas, and the Weber Morgan Narcotics Strike Force (collectively, “Defendants”). Magistrate Judge Dustin Pead issued an order granting Mr. Armstrong’s petition to proceed *in forma pauperis*. ECF No. 4. On May 20, 2022, Defendants filed a Motion for Summary Judgment, ECF No. 49. Mr. Armstrong did not respond and on June 29, 2022, Judge Pead ordered Mr. Armstrong to show cause as to why Defendants’ Motion for Summary Judgment should not be granted. ECF No. 50. Mr. Armstrong filed his response on September 6, 2022. ECF No. 54. After reviewing Mr. Armstrong’s response, Judge Pead issued a Report and Recommendation finding that Mr. Armstrong had failed to set forth any basis preventing summary judgment based on qualified immunity. Therefore, Judge Pead recommended that the court grant Defendants’ motion for summary judgment. ECF No. 56. Judge Pead notified Mr. Armstrong that a failure to file a timely objection to the Report and Recommendation could waive any objections to it. Mr. Armstrong did not file an objection within the allotted time.

Because Mr. Armstrong did not object to the Report and Recommendation, he waived any argument that it was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if “the interests of justice so dictate.” *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the Report and Recommendation and concludes it is not clearly erroneous. Thus, the court finds that the interests of justice do not warrant deviation from the waiver rule.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation granting Defendants’ Motion for Summary Judgment is ADOPTED IN FULL.

Signed October 21, 2022

BY THE COURT



Jill N. Parrish
United States District Court Judge